



11-26-04

IFW DAE
#

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mail Stop Petitions

In re Applicant:

Jon D. Cameron

Filed: December 6, 1997

Serial No.: 08/986,287

For: THERMOCHROMIC BAR
CODE

§ Confirmation No.: 4718
§
§
§
§ Art Unit: 2876
§
§ Examiner: St. Cyr, D.
§
§ Docket No.: JCMN-27,738US

PETITION UNDER 37 C.F.R. 1.182

Office of Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This application names Tobin Gaedke and Jon Cameron as co-inventors. A continuation application Serial No. 09/453,545 from this application has since issued as U.S. Patent No. 6,685,094 B2 which names Jon Cameron as a sole inventor. A lawsuit is pending where Tobin Gaedke is asserting his co-inventorship rights as respects U.S. Patent No. 6,685,094 B2; Robert Sek and Tobin Gaedke v. Jon Cameron and Pop! Technology LLC, Case No. 304-CV-753-B (United States District Court for the Northern District of Texas, Dallas Division).

This application is under an Office Action rejection mailed May 24, 2004. By letter dated November 19, 2004, from Mark W. Handley, attorney of record in this application, Tobin Gaedke was advised that this application would be abandoned effective November 24, 2004, for failure to respond to the May 24, 2004 Office Action (Exhibit A). By letter of November 23, 2004 by Edward Fernandes to Mark Handley, Handley was advised that Tobin Gaedke did not want this application to be abandoned and therefore Handley was asked to file a three-month

11/30/2004 AWONDAF1 00000031 162435 08986287

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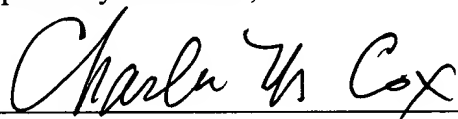
extension of time and a Request for Continued Examination on or before November 24, 2004 (Exhibit B). Handley has refused to do so saying he has instructions from Jon Cameron to not do so.

Accordingly, Tobin Gaedke asks that his power of attorney to Charles M. Cox, Registration No. 29,057, Akin Gump Strauss Hauer & Feld, 1111 Louisiana, 44th Floor, Houston, Texas 77002-5200, be accepted and the accompanying Petition and Fee for Extension of Time and Request for Continued Examination be entered in this application effective November 24, 2004 to maintain this application in a pending state.

Copies of the Petition for Extension of Time and Request for Continued Examination filed concurrently herewith are enclosed.

Respectfully submitted,

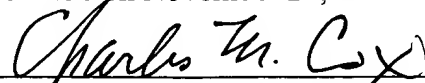
Date: November 24, 2004


Charles M. Cox, Reg. No. 29,057

AKIN GUMP STRAUSS HAUER & FELD, LLP
1111 Louisiana Street, 44th Floor
Houston, Texas 77002
Telephone: (713) 220-5800
Facsimile: (713) 236-0822

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service, Express Mail, airbill no. EV 479327419US addressed to Office of Petitions, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on November 24, 2004.


Charles M. Cox, Reg. No. 29,057



CHAUZA & HANDLEY, L.L.P.

ATTORNEYS AT LAW - PATENT, TRADEMARK AND COPYRIGHT MATTERS

MACARTHUR CENTER II
5605 N. MACARTHUR BLVD., SUITE 670
IRVING, TEXAS 75038
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WWW.TXIP.BIZ

WRITER:
MARK W. HANDLEY

DIRECT (972) 518-1424
EMAIL MHANDLEY@TXIP.BIZ

November 19, 2004

VIA FACSIMILE/E-MAIL
(512) 499-6290
efernandes@akingump.com

VIA CERTIFIED MAIL/RRR
7004 0550 0000 0093 8407

Edward F. Fernandes, Esq.
AKIN, GUMP, STRAUS,
HAUER & FIELD, L.L.P.
300 West 6TH Stree, Suite 2100
Austin, Texas 78701-2916

RE: Patent Application for a Thermochromic Bar Code
Application Serial No. 08/986,287, filed December 06, 1997
Our File No. JCMN-27,738US

Dear Mr. Fernandes:

This letter is to provide notice to you, and through you to your clients, Mr. Tobin Gaedke and his Assignee's, that we are not responding to an outstanding Office Action for the above-identified application. The Office Action was mailed May 24, 2004, and a response is due by November 24, 2004 with a three month extension of time.

If a response is not timely filed by November 24, 2004, the application will be abandoned.

Please do not hesitate to call should you have any questions.

Sincerely,

CHAUZA & HANDLEY, L.L.P.

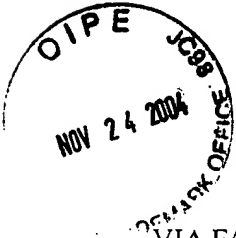
Mark W. Handley

MWH/lv

cc: Mr. Jon Cameron
Jennifer A. Lloyd, Esq.
Geoffrey R. Unger, Esq.

AKIN GUMP
STRAUSS HAUER & FELD LLP

Attorneys at Law



EDWARD F. FERNANDES
512.499.6265/fax: 512.499.6290
efernandes@akingump.com

November 23, 2004

VIA FACSIMILE, EMAIL AND
CERTIFIED MAIL / RRR

Mark W. Handley
Chauza & Handley, L.L.P.
MacArthur Center II
5605 N. MacArthur Blvd., Suite 670
Irving, Texas 75038

Re: Patent Application for a Thermachromic Bar Code; Application Serial No.
08/986,287, filed December 6, 1997

Dear Mr. Handley:

I am in receipt of your November 19, 2004 letter regarding your decision to not respond to an outstanding Office Action for the above-identified patent application (the "287 Application").

My clients, Tobin Gaedke and Robert Sek, each claim an interest in the 287 Application and do not wish to abandon the application. However, due to your late notice of your intention to abandon the application, my clients are unable to file a response to the Office Action by November 24, 2004 to prevent abandonment of the application.

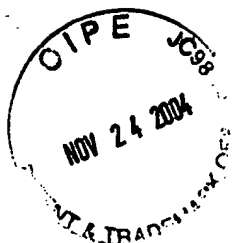
Therefore, please file a request for three-month extension of time and request for continued examination, together with the applicable fees, by tomorrow to prevent abandonment of the 287 Application. My clients will reimburse you for your fees and expenses.

If you have questions, please call me to discuss.

Very truly yours,

Edward F. Fernandes

c: By Facsimile, Email and
Certified Mail / RRR
Geoffrey R. Unger
Jennifer A. Lloyd



COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

MAIL STOP RCE

In re Applicant:

Jon D. Cameron

Filed: December 6, 1997

Serial No.: 08/986,287

For: THERMOCHROMIC BAR
CODE

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Confirmation No.: 4718

Art Unit: 2876

Examiner: St. Cyr, D.

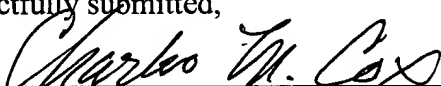
Docket No.: JCMN-27,738US

COMMUNICATION

Concurrent with the filing of the Extension of Time and fee therefore, and the Request for Continued Prosecution, a Petition Under 35 C.F.R. 1.182 asking for a decision that a Power of Attorney by Tobin Gaedke to Charles M. Cox, Registration No. 29,057, be accepted to make the Request for Extension and Request for Continued Examination timely filed effective November 24, 2004. A copy of the Petition Under 37 C.F.R. 1.182 is enclosed.

Respectfully submitted,

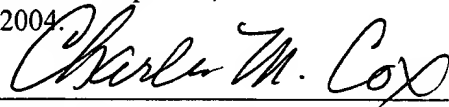
Date: November 24, 2004


Charles M. Cox, Reg. No. 29,057

AKIN GUMP STRAUSS HAUER & FELD, LLP
1111 Louisiana Street, 44th Floor
Houston, Texas 77002
Telephone: (713) 220-5800
Facsimile: (713) 236-0822

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service, Express Mail, airbill no. EV 479327422US addressed to Mail Stop RCE, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on November 24, 2004.


Charles M. Cox, Reg. No. 29,057

COPY**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Applicant:

JON D. CAMERON
TOBIN GAEDKE

Filed: December 6, 1997

Serial No.: 08/986,287

For: THERMOCHROMIC BAR
CODE§
§§
§§
§§
§

Confirmation No.:

Art Unit: Jon D. Cameron

Examiner: 2876

Docket No.: 680471.0001

POWER OF ATTORNEY BY INVENTOR

As a named inventor, I hereby revoke all previous powers of attorney and appoint the following to conduct the prosecution of this application/maintenance of the patent and transact all business in the Patent and Trademark Office connected therewith:

Charles M. Cox, Reg. No. 29,057

Please direct all communications to: **AKIN GUMP STRAUSS HAUER & FELD, LLP**, 1111 Louisiana Street, 44th Floor, Houston, Texas 77002, (713) 220-5800, FAX: (713) 236-0822, to the attention of: Charles M. Cox.


Tobin Gaedke

Date:

24 November 2004



COPY

PTO/SB/30 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	08/986,287
Filing Date	12/06/1997
First Named Inventor	Jon d. Cameron
Art Unit	2876
Examiner Name	Daniel St. Cyr
Attorney Docket Number	680471.0001

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____
- b. ☐ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/ Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other _____
2. **Miscellaneous**
- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____
3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
- The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 16-2435. I have enclosed a duplicate copy of this sheet.
- a. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other _____
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	November 24, 2004
Name (Print/Type)	Charles M. Cox	Registration No.	29,057

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature		Date	
Name (Print/Type)			

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:	§	Confirmation No.: 4718
	§	
JON D. CAMERON	§	
TOBIN GAEDKE	§	
	§	
Filed: December 6, 1997	§	Art Unit: 2876
	§	
Serial No.: 08/986,287	§	Examiner: Daniel St. Cyr
	§	
For: THERMOCHROMIC BAR	§	Docket No.: 680471.0001
CODE	§	

**PETITION AND FEE FOR
EXTENSION OF TIME (37 CFR 1.136(a))**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The fee of \$490.00 for obtaining a three-month extension of time to November 24, 2004, for the above-captioned patent application is attached hereto.

The Commissioner is hereby authorized to charge any additional filing fees or credit any overpayment to Deposit Account No. 16-2435. A duplicate copy of the Fee Transmittal sheet is enclosed.

Respectfully submitted,


Charles M. Cox, Reg. No. 29,057
ATTORNEY OR AGENT OF RECORD

Date: Nov. 24, 2004

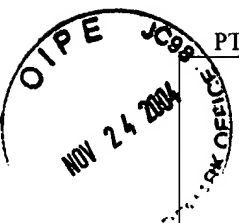
AKIN GUMP STRAUSS HAUER & FELD, LLP
1111 Louisiana Street, 44th Floor
Houston, Texas 77002
Telephone: (713) 220-5800
Facsimile: (713) 236-0822

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on November 24, 2004.

A handwritten signature in cursive script, appearing to read "Charles M. Cox", written over a horizontal line.

Charles M. Cox, Reg. No. 29,057



PTO/SB/17 (01-03)

**FEE TRANSMITTAL
for FY 2005**

Patent fees are subject to annual revision

Complete if Known

Application Number		08/986,287
Filing Date		December 6, 1997
First Named Inventor		Jon D. Cameron
Examiner Name		Daniel St. Cyr
Group / Art Unit		2876
Total Amount of Payment	\$	Attorney Docket No. 680471.0001

METHOD OF PAYMENT (check one)

- 1.
- ☒
- The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account No.: 16-2435

Deposit Account Name:

Akin Gump Strauss Hauer & Feld, LLP

- ☒
- Charge any additional Fee Required Under 37 CFR §§ 1.16 & 1.17

☐ Applicant claims small entity status.

See 37 CFR 1.27

- 2.
- ☐
- Payment Enclosed:
- ☐
- Check
-
- ☐
- Money Order
-
- ☐
- Credit Card
-
- ☐
- Other

FEE CALCULATION**1. Basic Filing Fee**

Large Fee Code	Large Entity Fee (\$)	Small Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
1001	\$790	2001	\$395	Utility Filing Fee	\$
1002	\$350	2002	\$175	Design Filing Fee	\$
1003	\$550	2003	\$275	Plant Filing Fee	\$
1004	\$790	2004	\$395	Reissue Filing Fee	\$
1005	\$160	2005	\$ 80	Provisional Filing Fee	\$
Subtotal (1)					\$

2. Extra Claim Fees

Claims	Extra	Fee (below)	Fee Paid
Total	<u>-20** =</u>	x \$	= \$
Indep.	<u>- 3** =</u>	x \$	= \$
Multiple Dependent			\$

**or number previously paid, if greater.

For Reissues, see below

Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description
\$ 18	\$ 9	Claims in excess of 20
\$ 88	\$ 44	Independent claims in excess of 3
\$ 300	\$ 150	Multiple dependent claim, if not paid
\$ 88	\$ 44	**Reissue independent claims over original patent
\$ 18	\$ 9	**Reissue claims in excess of 20 and over original patent
Subtotal (2)		\$

FEE CALCULATION (continued)**3. Additional Fees**

Large Fee Code	Large Entity	Small Fee Code	Small Entity	Fee Description	Fee Paid
1051	\$ 130	2051	\$ 65	Surcharge - late fee or oath	\$
1052	\$ 50	2052	\$ 25	Surcharge - late provisional filing fee or cover sheet	\$
1812	\$2,520	1812	\$2,520	Request for Reexamination	\$
1804	\$920*	1804	\$920*	Requesting publication of SIR prior to Examiner action	\$
1805	\$1840*	1805	\$1840*	Requesting publication of SIR after Examiner action	\$
1251	\$ 110	2251	\$ 55	Extension for reply within first month	\$
1252	\$ 430	2252	\$ 215	Extension for reply within second month	\$
1253	\$ 980	2253	\$ 490	Extension for reply within third month	\$
1254	\$1,530	2254	\$ 765	Extension for reply within fourth month	\$
1255	\$2,080	2255	\$1,040	Extension for reply within fifth month	\$
1401	\$ 340	2401	\$ 170	Notice of Appeal	\$
1402	\$ 340	2402	\$ 170	Filing a brief in support of an appeal	\$
1403	\$ 300	2403	\$ 150	Request for oral hearing	\$
1452	\$ 110	2452	\$ 55	Petition to revive - unavoidable	\$
1453	\$1,370	2453	\$ 685	Petition to revive - unintentional	\$
1501	\$1,370	2501	\$ 685	Utility issue fee (or reissue)	\$
1502	\$ 490	2502	\$ 245	Design issue fee	\$
1503	\$ 660	2503	\$ 330	Plant issue fee	\$
1460	\$ 130	1460	\$ 130	Petitions to the Commissioner	\$ 130.00
1807	\$ 50	1807	\$ 50	Petitions related to provisional applications	\$
1806	\$ 180	1806	\$ 180	Submission of Information Disclosure Statement	\$
8021	\$ 40	8021	\$ 40	Recording each patent assignment per property (times number of properties)	\$
1809	\$ 790	2809	\$ 395	Filing a submission after final rejection (37 CFR 1.129(a))	\$
1801	\$ 790	2801	\$ 395	Request for Continued Examination (RCE)	\$
1802	\$ 900	1802	\$ 900	Request for expedited examination of a design application	\$

Other fee (specify): _____ \$

Other fee (specify): _____ \$

* Reduced by Basic Filing Fee Paid

Subtotal (3) \$ 130.00

Submitted by

Charles M. Cox, Reg. No. 29,057

Date: 11/24/2004Express Mail No. EV 479327419 US